

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

APRIL 17, 2000

D035263 Nafsu v. Hurd

Pursuant to California Rules of Court, rule 10(c), the appeal filed March 10, 2000 is dismissed for appellant's failure to timely designate the record (Cal. Rules of Court, rules 4(a) and 5(a)).

D032293 Wolf v. St. Paul Fire & Marine Insurance Co. et al.

The judgments are affirmed. O'Rourke, J.; We Concur: Work, Acting P.J., Nares, J.

D032884 People v. Brice

The judgment is affirmed. The trial court is directed to correct the abstract of judgment to reflect that Brice was convicted of violating section 368, subdivision (b)(1), rather than section 368, subdivision (a)(1), and to forward a copy of the corrected abstract to the Department of Corrections. Nares, J.; We Concur: Work, Acting P.J., O'Rourke, J.

D033295 Provenzano v. Department of Consumer Affairs

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

D032086 People v. Allen et al.

The judgment is affirmed. O'Rourke, J.; We Concur: Work, Acting P.J., Nares, J.

D032909 Ghavameddini v. Barros

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a). The appeal is dismissed.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
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DIVISION ONE**

APRIL 18, 2000

D034154 In re Marriage of Warner

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)). Each party to bear own costs on appeal.

D034910 In re Michael P., a Juvenile

The appeal is dismissed. Haller, J.; We Concur: Work, Acting P.J., McIntyre, J.

D031356 Berry v. Kaiser Foundation Health Plan et al.

The order denying the petition to compel arbitration is affirmed in part as to the denial of arbitration on the request for injunctive relief. The order is reversed insofar as it denied the petition to compel arbitration of the damages claims. The trial court is directed, on remand, to make appropriate findings on arbitrability and federal preemption, as discussed by the Supreme Court in *Broughton*, supra, 21 Cal.4th 1066, and also to consider whether to stay any superior court injunctive relief proceedings until the arbitration of the damages matter has been completed. (§ 1281.4.) Each party is to bear its own costs. Huffman, J.; We Concur: Work, Acting P.J., Haller, J.

D033316 People v. Palmore

Judgment affirmed. CERTIFIED FOR PUBLICATION. Kremer, P.J.; We Concur: Nares, J., Haller, J.

D035008 In re the Marriage of Spanis and Alcobia-Buglio

Upon written request filed by appellant, the appeal is DISMISSED and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)).

D034717 In re Mariah P. et al., Juveniles

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is DISMISSED and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 38).

D035322 Valerio v. Arave

Pursuant to California Rules of Court, rule 10(c), the appeal filed March 6, 2000, is dismissed for appellant's failure to timely designate the record (Cal. Rules of Court, rules 4(a) and 5(a)).

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

APRIL 19, 2000

D033120 In re Adrian D., a Juvenile

The petition for rehearing is denied.

D034659 People v. Andette

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 38).

D032681 People v. Hernandez

Judgment affirmed. McIntyre, J.; We Concur: Nares, Acting P.J., McDonald, J.

D034576 Mooney v. Econo-Lube N'Tune, Inc. et al.

This court's order of January 27, 2000, staying this appeal as to Econo-Lube N'Tune is vacated. Upon written request filed by the appellant, and agreement by the respondents, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)). Each party to bear own costs on appeal.

D035052 In re Melisha C., a Juvenile

The respondent's unopposed motion to dismiss the appeal is granted. The appeal is dismissed.

D030950 People v. Storm

The judgment is affirmed. CERTIFIED FOR PARTIAL PUBLICATION. Benke, Acting P.J.; We Concur: Huffman, J., Nares, J.

D032493 In re Marriage of Martinez

Judgment affirmed. Patricia is entitled to costs on appeal. Benke, J.; We Concur: Huffman, J., McDonald, J.

D034375 People v. Burnett

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 38).

D034495 In re Jesse B. a Juvenile

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 38).

D033298 In re Jose H., a Juvenile

Accordingly, the Health and Safety Code section 11359 true finding is reversed. Otherwise, the judgment is affirmed. Work, Acting P.J.; We Concur: Nares, J., O'Rourke, J.

D033358 Lenane v. Continental Maritime Of San Diego, Inc.

The judgment is reversed. Lenane shall recover his costs on appeal from CMSD. Nares, J.; We Concur: Work, Acting P.J., McIntyre, J.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

APRIL 19, 2000 (Continued)

D035115 Walton, Ottesen, Meads & Koler et al. v. Beteck et al.

Pursuant to California Rules of Court, rule 10(c), the appeal filed January 31, 2000, is dismissed for failure of appellant to timely deposit costs for preparing the record on appeal (Cal. Rules of Court, rules 4(c) and 5(c)).

D031453 People v. Warren

The judgment is reversed and the matter remanded to the superior court with directions to conduct an in camera hearing on appellant's discovery motions consistent with this opinion. If the in camera hearing reveals no discoverable information in Correctional Officer Arnold's personnel record which would lead to admissible evidence helpful to appellant's defense, the superior court shall reinstate the original judgment and sentence. If the in camera hearing reveals discoverable information which could lead to admissible evidence helpful to appellant in defense of the charges, the superior court shall grant the requested discovery and order a new trial. Kremer, P.J.; We Concur: Work, J., McIntyre, J.

D032061 People v. Crowder

The opinion filed March 21, 2000, is modified. No change in judgment. The opinion is certified for publication.

D030667 Magone v. Maiorano

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

D031662 Murray v. Oceanside Unified School District

The judgment is reversed and the trial court is directed to allow (1) further proceedings to give Murray the opportunity to amend her supplemental and amended complaint to allege substantial compliance with administrative claims requirements for those allegedly harassing acts dating back to November 13, 1994, that constitute severe and pervasive harassing conduct, and (2) any such further proceedings as may be appropriate to resolve disputed factual issues regarding the statutory cause(s) of action and the separate cause of action for IIED, with respect to those claims of outrageous conduct that fall outside the scope of the employment bargain, including any continuing violations theory. Costs on appeal are awarded to appellant Murray. CERTIFIED FOR PUBLICATION. Huffman, J.; We Concur: Benke, Acting P.J., Nares, J.

D035129 Taxstar Corporation v. General Pacific Construction, Inc.

Pursuant to California Rules of Court, rule 10(c), the appeal filed December 22, 1999, is dismissed for failure of appellant to timely deposit costs for preparing the record on appeal (Cal. Rules of Court, rules 4(c) and 5(c)).

D031247 Valley Casework, Inc. v. Prudential/LMI Commercial Insurance Company et al.

The judgment is affirmed. Work, Acting P.J.; We Concur: Nares, J., O'Rourke, J.

D032125 People v. Tokash

The judgment is affirmed. CERTIFIED FOR PARTIAL PUBLICATION. McDonald, J.; We
Concur: Benke, Acting P.J., O'Rourke, J.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

APRIL 19, 2000 (Continued)

D032179 Dillon et al. v. Burgart

The judgment, insofar as it found Burgart liable to sisters for legal malpractice, is affirmed. The damage award shall be reduced and modified to an award of \$194,851.63, and as so modified the judgment shall be affirmed, if within thirty days after the filing of our decision sisters file with this court two copies of a consent to such modification and reduction of the damage award. (Cal. Rules of Court, rule 24(c).) If such consent is not filed, the award of damages shall be reversed and the matter shall be remanded for a new trial solely on the issue of damages. Each party shall bear her own costs on appeal. McDonald, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

**D033656 Salim v. Alcoholic Beverage Control Appeals Board/Department of
Alcoholic Beverage Control**

The Board's decision is affirmed as modified regarding condition No. 1. Work, J.; We Concur: Kremer, P.J., Nares, J.

**D033996 Russo v. Workers' Compensation Appeals Board and State of California
Department of Corrections, et al.**

The decision of the WCAB is annulled and the matter is remanded for further proceedings consistent with this opinion. Huffman, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

D031154 Allegretti & Company v. County of Imperial

The judgment is reversed. Benke, J.; We Concur: Work, Acting P.J., Huffman, J.

D035380 Osborn et al. v. Superior Court of San Diego County/City of San Diego et al.

The petition is denied. Petitioners have an adequate remedy by way of appeal following entry of final judgment.

D035181 In re Abreu on Habeas Corpus

The petition is denied.

D035381 Stephen v. Superior Court of Imperial County/People

The petition is denied.

D035243 K-Mart Corporation v. Workers' Compensation Appeals Board et al.

The petition is denied. The matter is remanded to the WCAB for the purpose of making a supplemental award of attorney fees to Mohammed Bahar for services rendered in connection with the petition for the writ of review. (Section 5801.)

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
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DIVISION ONE**

APRIL 19, 2000 (Continued)

D031936 Gonzales, a Minor, etc. et al. v. Price

D032195 Gonzales et al. v. Price

The judgment against appellants Amanda Gonzales, Marshall Gonzales and Christopher Gonzales is affirmed. The judgment against appellants Frank E. Gonzales and Katherine Gonzales on their cause of action for legal malpractice is reversed; the remainder of the judgment is affirmed. The parties shall bear their own costs on appeal. Kremer, P.J.; We Concur: Work, J., McIntyre, J.

**D035404 Brown et al. v. Superior Court of San Diego County/St. George Ford and
Lincoln Mercury, Inc. et al.**

The petition is denied.

D034724 Baumer on Habeas Corpus.

The petition for rehearing has been read and considered by Justices Work, Haller and McIntyre. William Baumer's petition for writ of habeas corpus was summarily denied on April 6, 2000.

Baumer now seeks reconsideration. The denial of a petition for a writ of habeas corpus without issuance of an alternative writ or order to show cause is final immediately as to that court. (Cal. Rules of Court, rule 24(a).) This court is now without jurisdiction. The petition for reconsideration is denied.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

APRIL 20, 2000

Court convened at 10 a.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and James McIntyre
Deputy Clerk: D. E. Moore

D034250 Diaz v. State of California

Cause called on merits. Terrence Leroy Butler, Esq. argued for appellant. David F. Taglienti, Deputy Attorney General argued for respondent. Mr. Butler replied for appellant. Cause submitted.

Court adjourned at 10:40 a.m.

D033389 Sipperly v. Thermoscan, Inc.

The judgment is affirmed. Haller, J.; We Concur: Kremer, P.J., Huffman, J

D033580 In re A.C. et al., a Juvenile

The judgment is affirmed. The clerk is directed to send a copy of this opinion to the California State Bar. Huffman, J., We Concur: Kremer, P.J., Nares, J.

D029546 Marriage of Galluzzi

The order is affirmed. Nicholas is to pay Connie's costs on appeal. Benke, Acting P.J.; We Concur: Nares, J., McIntyre, J.

D029130 Vollmer et al. v. Farmers Insurance Group et al.

The judgment is reversed with respect to the verdicts against Group and also as to the awards of punitive damages; in all other respects, the judgment is affirmed. All parties to bear their own costs on appeal. Benke, Acting P.J.; We Concur: Huffman, J., Haller, J.

D032788 Barrios v. State of California

Judgment affirmed. Benke, Acting P.J.; We Concur: Haller, J., McDonald, J.

D035440 Medrano v Superior Court of San Diego County/Homer Heller, Inc. et al.

The petition is denied.

D035269 In re Martinez on Habeas Corpus

The petition is denied.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

APRIL 21, 2000

D035018 Thayer v. Workers' Compensation Appeals Board et. al.

The petition is denied.

D035178 In re Jones on Habeas Corpus

The petition is denied.

D034409 Humphries v. City of San Diego

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)). Each party to bear own costs on appeal.

D034032 People v. Aldana

Judgment affirmed. Kremer, P.J.; We Concur: Work, J., O'Rourke, J.

D032441 Halcon et al. v. Harper

The judgment is affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., McDonald, J.

D033672 People v. Wynberg

Judgment affirmed. Huffman, J.; We Concur: Kremer, P.J., Work, J.

D033798 Kinsella v. Aronson et al.

The judgment is affirmed. Kremer, P.J.; We Concur: Nares, J., Haller, J.

D032239 Colvin v. Daou et al.

The judgment is affirmed. The ordinary costs on appeal are awarded to defendants. Huffman, J.; We Concur: Kremer, P.J., Nares, J.

D035279 In re Wickware on Habeas Corpus

The petition is denied.

D035469 Dunkl et al. v. Superior Court of San Diego County/City of San Diego

The petition is denied.

D035467 Dunkl et al. v. Superior Court of San Diego County/Padres, L. P.

The petition is denied.

D035448 Lee v. Superior Court of San Diego County/Korea Water Resources Corporation

The petition is denied.